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July 29, 1998

Mr. William E. Kennard, Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Suite 814  
Washington, DC 20554

Dear Bill,

You may recall that you and I had a nice chance to meet and discuss a few things when we sat across from each other at Mayor Campbell's lunch gathering here in Atlanta back in May. We talked then about the competitive situation for residential customers in the telecom world of the future. Some things which seem very clear and compelling to me are not making it into the mainstream discussion of this subject, and I feel strongly enough about this that I want to share my thoughts with you in a more organized fashion.

In thinking about the residential telecom world of the future I start with four things which I believe are increasingly clear:

1. The primary telecom offering in the future will be a high speed, always on, packet switched connection. More and more applications will migrate to the packet switched network, and the circuit switched network will diminish in relative importance. I think that the remaining debate on this point only concerns how long this process will take.
2. It seems pretty clear that in the large majority of cases the primary high-speed packet connection will be delivered to homes and small businesses through some sort of wired connection. (Though if economic wireless broadband local access facilities become available in the future, this analysis will apply equally to them.)
3. Competitive telecom providers have proven beyond any doubt that they can and will invest to develop competitive infrastructure for long haul transport, switching, routing, sales, and service. They have even shown that they will eagerly build competitive access facilities to large businesses. But there is one area where competitive providers have not

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made any significant progress in deploying competitive facilities – and that is in the local wires leading to residences and small businesses.

4. We as a society will be much better served if we have competitive telecom services to homes and small businesses, and in fact this is crucial for our economic health.

I believe I can provide compelling evidence to back up each of these points, but I suspect that you agree with their validity. If you would like for me to follow up with any backup on this, I would be happy to!

If the points above are valid, and if we do want to have a competitive telecom market for residential customers in the future, then we as a society face a crucial choice. Either we rip up neighborhoods to install a new set of wires every time a new competitor wants to enter the market, or we find a way to effectively share the wires that are in place. This is not much of a choice. We must find a way to allow competitive telecom providers get access to the physical network facilities that lead to customers' home.

Today there are generally two sets of wires that appear to provide a viable path to deliver the high-speed packet connection that will be the primary telecom service of the future. One is the copper wire of the telephone companies, and the other is the co-axial cable of the cable television companies. The policy prescriptions are equivalent for both sets of wires. Two competitors in a market are not enough. Economics will not support the physical deployment of multiple additional physical networks to residences. The *only* way to have a vigorously competitive telecom market for residential customers in the future is to find a way for competitors to effectively share the wires that are in place. This will require regulatory action.

Competitors have proven that they will eagerly deploy high capacity long haul transport. They have proven that they will deploy competitive switching and routing infrastructure. Local transport to homes and small business is the one and only area where the deployment of competitive infrastructure is not happening. And for good reason! Local utility distribution networks are the classic case of the economists' "natural monopoly".

Another factor about the telecom world of the future that I think is important is the crucial role of service and support. In the future there will be a whole variety of devices and applications sharing the packet connection in a home. This means a local area network ("LAN") in the home. It means there will be phone like devices hooked up to the LAN. Video devices. A variety of web browsing and email capable devices. And probably lots of devices we can't even imagine yet. This is not going to be easy! Already support is far more important in the ISP business than it has been in any telecom business in the past. It will become more difficult, and more important. In fact, I think support will increasingly become the biggest piece of economic value added in the telecom world at the residential and small business level. Service and support is also the Achilles' heel of the incumbent cable companies and telcos. If customers can only choose between the incumbent owners of physical local networks to deliver and support these high speed packet connections - and don't have the option to choose a third party

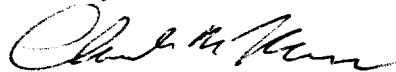
that understands and can deliver necessary service and support - the market will develop far, far more slowly than it should.

What seems abundantly clear to me from this analysis is that we must create a regulatory landscape where competitors can effectively share the pipes that provide high-speed transport to residences. This principle needs to be firmly established as a key piece of the regulatory foundation of telecom. With that principle established, I think there is room for healthy debate on the precise way to implement the principle. Alternatives might include a requirement for owners of local transport facilities to provide high speed transport facilities at reasonable wholesale rates for competitive providers, or even a structural and ownership division between the entities that own the physical local networks and the companies that deliver retail services to residential customers.

I'm happy to leave the discussion of implementation to a later conversation, but I think that it is crucially important to establish the principle of effective sharing of local high speed access facilities leading to residences. I would love to hear your thoughts on this, and I would like to do anything that might be helpful in this effort. If you think that it might be helpful for me to meet with you or your staff, I will gladly travel to Washington at your convenience. My company clearly has a direct interest in this issue, but I'm also very firmly convinced that this a crucial issue for consumers and for our entire economy.

Thank you very much for your time! I would love to hear back from you or any members of your staff. I can be reached at 404-815-0770 x2400, and my direct email is [mchenry@mindspring.net](mailto:mchenry@mindspring.net).

Sincerely,

A handwritten signature in black ink, appearing to read "Charles M. Brewer". The signature is fluid and cursive, with the first name "Charles" being the most prominent part.

Charles M. Brewer  
Chairman and CEO  
MindSpring Enterprises, Inc.